BOMBAY REGULATION V OF 1827.[1]

[*1st January 1827*]

Repealed in part, by Act 28 of 1855 ;
" " " " " 9 of 1871 ;
" " " " " 12 of 1873 ;
" " " " " 12 of 1876 ;
" " " " " 4 of 1894 ;
" " " (locally), by Act 17 of 1879, s. 12 :
" " " (locally), by Act 4 of 1882.
Adapted and modified by the Adaptation of Laws Order, 1950.

A Regulation [2]* * * * * containing rules of judication respecting written acknowledgments of debts executed without receipt of a full consideration, also regarding [2]* * the tendering payment of debts, and the disposal of property mortgaged or pledged.

[3]* * * * * * WHEREAS justice, the interests of trade, and the easy and secure transaction of money-dealings require that the effect of written acknowledgments of debts, when the receipt of a full consideration is contested, should be defined and made known, and that certain provisions should be framed [3]* * * * for determining the effects of tenders of payment, and the rights of parties concerned in property mortgaged or pledged ; Preamble.

the following rules have therefore been enacted [3]* * * * *

CHAPTER I.

[*Limitation.*]

1 to 8. *Rep. Act IX of 1871.*

CHAPTER II.

OF ACKNOWLEDGMENTS OF DEBTS EXECUTED WITHOUT RECEIPT OF A FULL CONSIDERATION IN VALUE.

9. [4]*First.*—Written acknowledgments of debt in any shape shall not be held conclusive in a Court of Law as to the amount, if the defendant show that a full consideration has not been received. Proof of amount of debt.

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[1] The Preamble and ss. 9, 14 and 15 of Bom. Reg. 5 of 1827 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the State of Bombay, except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwassi Chiefs :—
(1) The Parvi of Kathi.
(2) The Parvi of Nal.
(3) The Parvi of Singpur.
(4) The Walwi of Gaohalli.
(5) The Wassawa of Chikhli.
(6) The Parvi of Nawalpur.

[2] The words "defining the limitations, as to time, within which civil actions may be prosecuted and" and the word "interest" were repealed by the Repealing Act, 1876 (12 of 1876).

[3] The words "Whereas it is conducive to the public security and the quieting of disputes, that limitations should be prescribed to the period within which civil suits may be instituted and", the words "for the calculation of the interest of money, and for limiting the amount thereof and", and the words "to have effect from such date as shall be prescribed in a Regulation to be hereafter passed for that purpose" were repealed by the Repealing Act, 1873 (12 of 1873).

[4] S. 9, *clause first*, is repealed locally, so far as regards any suit to which section 12 of the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), applies—*see* Act 17 of 1879, s. 12 (to be read with s. 1).

Proof in case of cultivator sued on writing executed [2][at a place not subject to this Act].

Second.—And in the case of a cultivator of the soil, sued upon a written acknowledgment executed at a place which was not at the time of such execution [1][subject to this Act], if the circumstances are such as to convince the Court that the creditor might reasonably be expected to possess other proof of the amount besides such written acknowledgment (the consideration received for the same being contested) then the said writing shall not be held conclusive as to the amount, whether the defendant prove a deficiency in the consideration or not, but the Court shall pass a decree for only such amount as the claimant may otherwise prove to be due.

CHAPTER III.

[*Rate and continuance of Interest.*]

10 to 12. *Rep. Act XXVIII of 1855.*

13. *Rep. Act XII of 1873.*

CHAPTER IV.

HOW A CLAIM TO INTEREST IS AFFECTED BY TENDER OF PAYMENT.

Interest ends upon tender made.

14. If a debtor can prove that he has tendered to a creditor the whole or any portion of the amount due, all further interest shall cease on the amount tendered.

CHAPTER V.

OF THE DISPOSAL OF PROPERTY MORTGAGED OR PLEDGED.

[3]**15.** *First.*—When a creditor is placed in possession of property by mortgage or otherwise, a security for a debt, his claim over such property shall, in the absence of other special agreement, constitute his sole security for payment of the debt, or such part of it as the said property may have been given in security for, and interest thereon is to be considered as included in the said security.

Second.—If the property yield profit, and no stipulation has been made respecting the disposal of the said profit, or payment of interest on the debt, the profit shall be considered as equivalent for the interest.

Third.—In the absence of any special agreement, or recognised law or usage to the contrary, either party may at any time, by the institution of a civil suit, cause the property to be applied to the liquidation of the debt, the surplus, if any, being restored to the owner.

APPENDICES A AND B.

[*Rep. Acts XII of 1873 and IV of 1894, respectively.*]

[1] These words were substituted for the words "under British jurisdiction" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "out of British jurisdiction" by Bom. 18 of 1953, s. 3 and Second Schedule.

[3] S. 15 is repealed by the Transfer of Property Act, 1882 (4 of 1882), in the whole of the State of Bombay other than the Scheduled Districts, i.e. the villages belonging to the following Mehwassi Chiefs :—

(1) The Parvi of Kathi.
(2) The Parvi of Nal.
(3) The Parvi of Singpur.
(4) The Walwi of Gaohalli.
(5) The Wassawa of Chikhli.
(6) The Parvi of Nawalpur.

See Notification No. 5947, dated the 27th October 1892, *Bombay Government Gazette*, 1892, Pt. I, p. 1071.